



UNITED STATES DEPARTMENT OF THE INTERIOR
FISH AND WILDLIFE SERVICE
FISH AND WILDLIFE ENHANCEMENT

Colorado State Office
730 Simms Street, Suite 290
Golden, CO 80401

IN REPLY REFER TO:

FWE/CO
MAIL STOP 65412

January 7, 1992

David P. Simonson
Assistant Manager
for Environmental Management
U.S. Department of Energy
Rocky Flats Office
P.O. Box 928
Golden, CO 80402-0928

Dear Mr. Simonson:

The U.S. Fish and Wildlife Service (Service) has reviewed the document entitled, "Fish and Wildlife Coordination Act/Migratory Bird Treaty Act Compliance, 881 Hillside French Drain (881-HFD) Project, Final Habitat Survey Report," November 1991.

Relative to the subject document, we wish to note that the final version, "Phase III RFI/RI, Environmental Evaluation Work Plan, Rocky Flats Plant, 881 Hillside, (Operable Unit No. 1)," for the Environmental Restoration Program at the Rocky Flats Plant, was released in June 1991.

The Service recognizes that our involvement with the U.S. Department of Energy-Rocky Flats Office (Energy) related to Operable Unit #1 (OU1) is not as synchronized as is our usual participation in such projects. The Service usually becomes involved with a project of this type earlier within the scoping and planning process. Our State Office staff has recently been afforded additional personnel resources which are now available to better represent Service trust issues and issues related to natural resource damage assessment at Superfund sites. Please refer to our letter to you of January 6, 1992 concerning our comments on Endangered Species Act issues concerning the 881-Hillside French Drain project for a summary of Service involvement with this project to date.

ADMIN RECORD

A-DU01-000953

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We wish to offer the following general comments and recommendations concerning this subject document:

1. Descriptions of transect locations appear to be logical. However, we request that existing transect data be graphically portrayed, including the dates and times of day the work was undertaken. We also request that maps delineating transect extent and locations be included with submitted documents for various activities in attempts to locate use by migratory bird species.
2. Physical disturbances by interim response actions have higher potential to adversely affect migratory birds during specific times of the year over others (e.g., during nesting seasons). We recommend that French Drain construction activity, as well as all other projects involving trust resource disturbances, be planned in a manner that compensates for seasonal wildlife breeding and nesting activities. Project work should also be planned for, and undertaken in, sensitive habitats during those times of the year when migrating and/or resident raptors, waterfowl and passerines are least likely to be disturbed or otherwise adversely affected by on-the-ground activities.
3. It is unclear how Energy will incorporate or take into account results of data collected and subsequent determinations portrayed in this document, for ongoing and future project activity and for identifying, restoring or mitigating potential adverse effects to Service trust resources. Will results, determinations and conclusions made in this and subsequent documents be assembled as amendments to the environmental evaluation(s) and work plans for OU1? How will these results and determinations translate into modified or updated on-the-ground construction activities for maintaining and preserving the environmental integrity of previously existing wetland, riparian and upland habitats? How will modified construction activities account for important ecological transition zones existing within the 881 Hillside area that support various biological communities affecting migratory birds?

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We recommend that Energy formulate a strategy for timely and continual incorporation of new data assessing potential for adverse impacts to natural resources into an ecological evaluation and assessment process that responds to ongoing and future remedial and cleanup project activity. We further recommend that Energy identify a routine process for notifying natural resource trustees of issues of concern and allow the trustees an opportunity to provide appropriate assistance to Energy.

Our specific comments to the subject document are attached. However, the following is a brief summary of those recommendations.

The Service believes that the Drain Project appropriately falls within Service concerns and authorities detailed within the Fish and Wildlife Coordination Act. The Service recommends that Energy develop a comprehensive strategy for Fish and Wildlife Coordination Act and Migratory Bird Treaty Act compliance that incorporates the Drain Project with other ongoing or planned 881-Hillside projects. We further recommend that a comprehensive strategy document be developed and implemented as soon as possible for the entire Rocky Flats site that states Energy's commitment to: 1) identifying potential adverse impacts to Service trust resources and natural resources in general, 2) taking appropriate action to protect natural resources prior to executing on-the-ground activities, and 3) routinely compiling historical natural resources data and information on adverse impacts to natural resources for use in scoping and planning remedial and cleanup projects. We recommend that Energy use this data and information to protect and restore natural resources as a routine project component for application to the Drain Project, additional on-going and future 881-Hillside Projects, and other cleanup and remedial projects that concern the Rocky Flats site. This strategy should be included in project work plans and referenced in project compliance documents pertaining to Service authorities under appropriate Federal environmental statutes, and submitted for review and comment in a timely manner to the Service, other concerned natural resource trustees and the U.S. Environmental Protection Agency (USEPA).

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Please contact John Wegrzyn or Andrew Archuleta at (303) 231-5280 if you or your staff have questions or require further information. Thank you.

Sincerely,



LeRoy W. Carlson
Colorado State Supervisor

JGW:LRD

cc: Chief Environmental Officer
USDI-Region 6
Environmental Contaminants Coordinator
FWS/FWE-Region 6
FWS/FWE; SLC
USEPA Region VIII
(Attn: Martin Hestmark)
USEPA Region VIII
(Attn: Gene Reetz)
CDOW-Central Region
(Attn: David Weber)
Reading File
Project File

FWE/CO: Contam./Superfund/DOE-RFP/OU1-881FD
RF881FD2.WPF

U.S. FISH AND WILDLIFE SERVICE
COLORADO STATE OFFICE, GOLDEN, CO

Specific Comments to Document Entitled, "Fish and Wildlife
Coordination Act/Migratory Bird Treaty Act Compliance,
881-Hillside French Drain (881-HFD) Project,
Final Habitat Survey Report

January 1992

- Section 4.1, Presence of Migratory Bird Species, Passerines, p 4: The last sentence in the paragraph states, "Population density values will be calculated as part of the OUI EE, however, these numbers are not yet available." Under the current circumstances, in which construction activity for the 881-Hillside French Drain (Drain) is already ongoing, it is possible that potential environmental impacts adversely affecting population density of passerine populations have already occurred. The Service recommends that the U.S. Department of Energy-Rocky Flats Office (Energy) immediately develop a strategy to compile historical population density data for migratory birds. Sources for such data should include the Colorado Division of Wildlife, Colorado Bird Observatory, National Audubon Society, and other environmental organizations. We further recommend that Energy develop and implement a strategy to monitor, document and assess current and future potential adverse impacts to passerine and other avian migratory species that may result from the Drain Project itself and in conjunction with other activities in progress, or proposed for the 881-Hillside area.
- Section 5.1, Water-Related Activities, p 4: The Service disagrees with Energy that the Drain project should be excluded from consideration under the Fish and Wildlife Coordination Act (Coordination Act). Section 662 of the Coordination Act states in part, "whenever the waters of any stream or other body of water [emphasis added] are proposed or authorized to be impounded, diverted, the channel deepened, or the stream or other body of water otherwise controlled or modified for any purpose whatever [emphasis added], including navigation and drainage, by any department or agency of the United States,...such department or agency first shall consult with the United States Fish and Wildlife Service,..." It is the position of the Service that:

1. Woman Creek is a water of the United States.

2. Natural drainages that convey surface water runoff and anthropogenically-caused intermittent discharges from the 881-Hillside plateau, down-gradient, toward Woman Creek, are tributary to Woman Creek and are also classified as waters of the United States. The Drain Project poses potential adverse effects to wildlife habitats that directly and indirectly support migratory birds, including raptors, songbirds, and other avian groups.

Drainages tributary to Woman Creek, within the Drain Project area, include wetland and riparian habitats on a south aspect slope contributing to a varietal mixture of riparian, transition zone and upland botanical species that, under normal conditions for high plains prairie, will support diverse vertebrate and invertebrate biological communities.

3. While the Drain itself will not necessarily serve to impound water, it however does, by virtue of its design, convey water intended to be impounded and treated prior to subsequent discharge. Aspects of this project may deprive short reaches of drainages tributary to Woman Creek, as well as a stretch of Woman Creek itself, of habitat-sustaining water that supports migratory birds.
4. Energy states in Section 5.1, paragraph 2, that the possibility exists for the project to threaten Woman Creek with increased sedimentation from excavation activities that might thereby constitute a "modification" to Woman Creek flows. Should such sedimentation occur, its effect will be to alter the habitats supporting the current biological communities associated with that stretch of the creek. Further, it is probable that such sedimentation will adversely affect current impoundments to Woman Creek down gradient of the project area.
5. For the reasons stated above, it is the opinion of the Service that the 881-Hillside French Drain Project is, in fact, subject to the provisions of both the Fish and Wildlife Coordination Act and the Migratory Bird Treaty Act and that the Service is entrusted with authorities related to these Acts that apply to the Drain Project.

- Section 5.2, Wildlife Benefits/Losses, ¶1, p 5: The last sentence of the subject paragraph states that significant areas of habitat similar to that found within the Drain Project area exists throughout the Rocky Flats site that could compensate for the loss of habitat to the Drain Project. The Service requests that Energy compile a thorough characterization of habitat types, including quantity and quality of habitats potentially lost, and a quantitative assessment of the biological community components that may be adversely affected (detailed to guild/trophic level interactions). We further recommend that Energy propose and submit to the Service a comprehensive mitigation plan for restoration, replacement and/or acquisition of Service trust resources vulnerable to loss as a result of the Drain Project that intends and accomplishes no net loss of resources.

The Service concurs with the statement by Energy in ¶2 that adverse wetland impacts due to Drain Project activities qualify for consideration under 10 CFR 1022.

The Service also concurs with the statement by Energy in ¶3 that Drain Project activities could lead to invasion of plant species. Such an invasion would result in lower forage quality for migratory birds, especially passerine species, thereby constituting lower quality habitat and forage for small mammals that support migratory and resident raptor populations in the vicinity of the Drain Project area and the Rocky Flats site.

- Section 5.3, Conservation Measures, p 5: We concur, recommend and encourage that the potential for increased sedimentation to Woman Creek and the potential for less desirable plant species invading areas disturbed by construction as a result of Drain Project activities be controlled as much as possible. We further concur that it is prudent to develop a contingency plan for mitigating habitat losses and other potential adverse impacts to natural resources prior to proceeding with any excavation activity. Unfortunately, since Drain Project excavation activity has already commenced, the Service recommends that Energy compile all historical data and information concerning natural resource quantity and quality for the 881-Hillside. A comprehensive strategy to monitor, document, assess and respond to potential adverse impacts to Service trust resources, and natural resources in general, for the Drain Project and other on-going and planned 881-Hillside projects should be developed and implemented as soon as possible.

The Service recommends that this comprehensive strategy include an approach that emphasizes and maximizes avoiding potential adverse impacts to natural resources. If the potential for adverse impacts appears imminent or unavoidable, the Service recommends that compensatory mitigating actions be evaluated and undertaken during ongoing project activity with 1) restoration, 2) replacement, and 3) acquisition of Service trust resources, habitats and natural resources in general, constituting quality action priorities in descending order.

Such a strategic environmental plan should be included, or referenced as an action document in, or be amended to, the 881-HFD Work Plan. This strategic action document to protect, restore, replace and/or acquire natural resources should be referenced as an action document within all work plans that relate to projects proposed for the 881-Hillside and projects within other Operable Units concerning the Rocky Flats site. Details for a given project that apply to unique or specific work activities should be included in a separate work plan section for that project.

- Section 6.0, Determination, p 5: Based on the documentation of the data currently available that was submitted to the Service for review, we concur that:

1. Any excavation for the Drain Project could have adverse impacts to migratory bird species and other species in or near the project area;
2. Energy should develop a plan that minimizes the possibility of increasing sediment loads to Woman Creek. We recommend that this plan be developed and implemented as part of the comprehensive strategy previously described.
3. Energy develop a plan that minimizes impacts to vegetative resources on either side of the 881-Hillside. We recommend that this plan be developed and implemented as part of the comprehensive strategy previously described.
4. Energy should be encouraged by the natural resource trustees to negotiate a mitigation strategy with each trustee concerning their responsibilities and authorities at the Rocky Flats site to offset the loss of habitats and other natural resources. We recommend that this strategy be developed and implemented in the comprehensive manner previously described.

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The Service further concurs with the determination by Energy that any activity involving impacts to small wetland habitats within the 881-Hillside is subject to the requirements of 10 CFR 1022.